

### **REMARKS/ARGUMENTS**

There are no amendments to the specification, drawings, or claims herein.

Claims 1-40 are pending. Claims 30-40 are allowed. Claims 1-5, 8-10, 12 and 26-28 are rejected and Claims 6, 7, 11, 13-25 and 29 are objected to. Reconsideration is respectfully requested.

Claims 1-2, 4-5, 8-9, 12, 26 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golan, U.S. Patent No. 5,826,180 (hereinafter 'Golan') in view of Miyauchi, U.S. Patent Application Publication 2004/0041,554 A1 (hereinafter 'Miyauchi').

Applicant respectfully traverses the rejection on the grounds that the combination of Golan in view of Miyauchi fails to support a *prima facie* case of obviousness with respect to Claims 1-2, 4-5, 8-9, 12, 26 and 28. Specifically, to factually support a *prima facie* case of obviousness with respect to the rejected claims, there must be, 1) "some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings"; 2) "a reasonable expectation of success" in modifying or combining the teachings of the references; and 3) a prior art reference or references when combined that, "teach or suggest all the claim limitations". See MPEP § 2142, *Establishing a Prima Facie Case of Obviousness*. Moreover, "[t]he teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991)". MPEP § 2142, cited *supra*. The combination of Golan and Miyauchi fails to meet these requirements for *prima facie* obviousness with respect to the rejected claims.

In particular, Golan does not disclose or suggest all of the claim limitations recited separately in each of base Claims 1 and 26. Miyauchi fails to disclose or suggest the claim limitations that are lacking in the disclosure of Golan. As such, the combination of Golan and Miyauchi does not disclose and respectfully cannot suggest all of the limitations of either the base claims or any of the claims that are dependent therefrom.

Golan discloses a near homodyne radio frequency receiver that includes an “inphase-quadrature (I/Q) mixer, and a calibrated image rejection processor” (Golan, Abstract, lines 2-4). According to Golan, the I/Q mixer convolves a, “modulated radio frequency signal with inphase and quadrature versions of [a] periodic signal and low pass filters the resultant signals”, while “[t]he calibrated image rejection processor corrects at least one of the filtered resultant signals and performs image rejection on the corrected signals” (Golan, Abstract, lines 7-12). The correction applied to the resultant signals (i.e., difference signals  $I(t)$  and  $Q(t)$ ) is explicitly identified as correcting for a mismatch in the inphase and quadrature versions of the periodic signal (i.e.,  $f_I$  and  $f_Q$ ) which can introduce low frequency image components into the difference signals  $I(t)$  and  $Q(t)$  (see for example the discussion in Golan at Col. 3, lines 44-59). Image components are known to be undesired radio frequency (RF) signals at an image frequency of the receiver that interfere with the reception and processing of a desired incoming RF signal at a carrier frequency  $f_{RF}$ . Golan discloses determining two scalar constants,  $\epsilon$  and  $\alpha$  (or  $\sin(\alpha)$ ) that are used to correct for the mismatch (See Golan, Equations 14 and 15).

However, Golan fails to disclose or even suggest more than just “overlapping frequency bands”, recited in either base Claim 1 or base Claim 26, contrary to the Examiner’s contention. For example, Golan does not disclose or suggest, “determining an estimate of an actual IF response of the receiver from IF responses of the receiver under test”, as recited in Claim 1. Similarly, Golan does not disclose or suggest, “measuring an IF response of a receiver”, as recited in Claim 26.

Specifically, as defined by Applicant’s specification, the IF response is a, “an intermediate frequency (IF) transfer function or frequency throughput response” of a receiver under test (Applicant’s specification, Page 3, lines 16-17). By definition, a transfer function is a function of frequency that describes an input/output characteristic of a component in terms of one or more of amplitude and phase (or in terms of real and imaginary components). Thus, as employed and claimed, both the estimated actual IF response and the measured IF responses are functions of frequency (i.e., measured values as a plurality of frequencies).

In contrast, Golan does not disclose or suggest determining an IF response that is a function of frequency. In fact, Golan is silent on an IF response of the receiver. Instead, Golan discloses providing a signal at the image frequency  $f_2$  (i.e., discrete

sine wave) during calibration. Further, all of the equations and associated discussion thereof assumes that only a single frequency and not a range or band of frequencies is employed. Hence, Golan does not disclose and respectfully cannot disclose or suggest, “an estimate of an actual IF response of the receiver from IF responses of the receiver under test”, or “measuring an IF response of a receiver”, as recited in Applicant’s Claims 1 and 26.

Furthermore, Golan fails to disclose and respectfully cannot suggest either of determining, “a set of conversion coefficients computed from the IF responses”, or “computing a set of conversion coefficients from the IF response measurements”, as are further recited in Claims 1 and 26, respectively. In particular, without disclosing measuring or otherwise determining an IF response, Golan cannot disclose or suggest determining anything therefrom. That notwithstanding, as defined by Applicant, the set of conversion coefficients computed from the IF response measurements also is a function a frequency. The only coefficients disclosed or suggested by Golan (i.e.,  $\epsilon$  or amplitude error and  $\alpha$  or phase error of the quadrature signal) are clearly scalar quantities and not functions of frequency as defined and employed by Applicant. As such, the Golan clearly fails to disclose or suggest determining or computing the set of conversion coefficients claimed by Applicant.

Finally, Golan fails to disclose and respectfully cannot suggest determining an estimate of an actual IF frequency response, “such that the estimate reduces an effect of an uncertainty in knowledge of a radio frequency (RF) stimulus signal used in the IF response measurements”, as is variously recited in Claims 1 and 26. Instead, Golan explicitly discloses removing an error(s) in a local oscillator signal (i.e., amplitude and phase mismatch between  $f_I$  and  $f_Q$ ) and further removing image signals introduced in the difference signal  $Q(t)$  as a result of the error(s). Neither the local oscillator signal error(s) nor the image signals are or can reasonably be construed as equivalent to, “a radio frequency (RF) stimulus signal used in the IF response measurements”. Similarly, nowhere in the disclosure of Golan is there a suggestion that an estimate is or can be produced that reduces an effect of stimulus signal uncertainty, as claimed by Applicant.

Miyauchi fails to disclose or suggest the limitations that are lacking in the disclosure of Golan, such that a combination thereof lacks disclosure or suggestion of

all of the limitations of either Claim 1 or Claim 26. For example, Miyauchi at least fails to disclose or suggest any of measuring or determining an IF response that is a function of frequency, as defined and claimed by Applicant. Furthermore, Miyauchi does not disclose and respectfully cannot suggest determining or computing a set of conversion coefficients from the IF response measurements. Likewise, Miyauchi fails to disclose or suggest, “determining an estimate of an actual IF frequency response”, such that the estimate reduces the effect of stimulus signal uncertainty, as is variously recited in Claims 1 and 26. Thus, Miyauchi fails to add the claim limitations that are lacking in Golan such that the combination of Golan and Miyauchi does not and respectfully cannot disclose or suggest all of the claim limitations recited in Applicant’s base Claims 1 and 26.

Rejected Claims 2, 4-5, 8-9 and 12 are dependent from and include all of the limitations of base Claim 1. Rejected Claim 28 is dependent from and includes all of the limitations of base Claim 26. Therefore, the combination of Golan and Miyauchi does not and respectfully cannot disclose or suggest all of the claim limitations recited in Claims 2, 4-5, 8-9, 12 and 28, for at least the same reasons given above for Claims 1 and 26.

Failure by the combined references to disclose or suggest all of the claim limitations in and of itself defeats *prima facie* obviousness. See MPEP §2143.03, *All Claim Limitations Must Be Taught or Suggested*. Also see *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). Nevertheless, the combination of Golan in view of Miyauchi further fails to support *prima facie* obviousness due to the Examiner not showing both of a legitimate suggestion or motivation to combine the references and evidence of a reasonable expectation of success in modifying or combining the teachings of the references.

As noted above, Golan discloses a near homodyne radio frequency receiver that includes a calibrated image rejection processor for removing image components introduced by a mismatch in the inphase and quadrature local oscillator signals  $f_I$  and  $f_Q$ . Miyauchi discloses a frequency conversion sweep measuring method that suppresses an image signal in a spectrum analyzer when a preselector filter is omitted (see Miyauchi, Abstract, lines 1-5). It is unclear how there can be a suggestion or motivation to combine the reference teachings of such disparate references. Neither the references themselves nor the knowledge generally available to one skilled in the

art would seem to suggest combining the homodyne receiver according to Golan with an image rejection method applicable to a heterodyne receiver (e.g., spectrum analyzer) as disclosed by Miyauchi, as contended by the Examiner. Applicant respectfully cannot ascertain any explicit disclosure in either Golan or Miyauchi that would suggest such a combination. Specifically, nowhere in the respective disclosures of Golan and Miyauchi is there suggested that such a combination would or even could result in “further removing the influence of image data in the IF responses”, as contended by the Examiner as a motivation to combine the references.

Similarly, there is *no extrinsic evidence to support* a contention that a teaching, suggestion, or motivation *not found explicitly* in the cited references was *either present implicitly* in that taught by the references (which in this instance, clearly it is not) *or* was *in the knowledge generally available to one of ordinary skill in the art*. Specifically, *nothing is cited* by the Examiner (i.e., no extrinsic evidence) beyond the references themselves to support the rejection.

Thus, the suggestion or motivation to modify the reference or to combine reference teachings is not found, “either in the references themselves or in the knowledge generally available to one of ordinary skill in the art”, as required to support *prima facie* obviousness. See MPEP, Section 2142, cited *supra*. Also see, MPEP §2143.01 *Suggestion or Motivation to Modify the References* (Obviousness can *only* be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation *to do so* found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art) (*emphasis added*).

Moreover, “[t]he mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art *also suggests the desirability* of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)” (emphasis in original; and *emphasis added*). MPEP §2143.01, at III. In particular, for a motivation to combine/modify to be legitimate and therefore, be employed to support a *prima facie* case of obviousness, there must be “evidence that ‘a skilled artisan, *confronted with the same problems as the inventor* and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed’” (*emphasis is added*). *Ecolochem*,

*Inc. v. Southern Calif. Edison Co.*, 227 F.3d 1361, 1375, 56 USPQ2d 1065, 1075 (Fed. Cir. 2000) (quoting *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1456 (Fed. Cir. 1998)) (***emphasis is*** added). “[E]ven when the level of skill in the art is high, the Board [or the Examiner] must identify specifically the principle, known to one of ordinary skill, which suggests the claimed combination. In other words, the Board [or the Examiner] ***must explain the reasons*** one of ordinary skill in the art would have been motivated to select the references and to combine them to render the claimed invention obvious” (***emphasis*** added). *In re Rouffet*, cited *supra*.

The ***desirability*** of the proposed combination/modification is not evident from the references or the generally available knowledge. Similarly, there is no explanation of the reasons why the skilled artisan would have been motivated either to select the ***particular references*** or to combine the references. In particular, there is simply ***no evidence*** to support a finding that, “a skilled artisan, ***confronted with the same problems as the inventor*** and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed”. *Ecolochem, Inc. v. Southern Calif. Edison Co.*, cited *supra*. Hence, the rejection of Claims 1-2, 4-5, 8-9, 12, 26 and 28 lacks a legitimate suggestion or motivation to combine/modify the references in support of a *prima facie* case of obviousness.

In fact, Appellant can discern no objective reason for combining/modifying Golan and Miyauchi, as proposed by the Examiner, other than a possible attempt on the part of the Examiner to address acknowledged deficiencies in the disclosure of Golan with respect to Applicant’s claim limitations. In other words, the Examiner appears to be improperly using Applicant’s teaching as a blue print for picking and choosing among the disclosed features of the cited references.

The Examiner may not, “resort to speculation, unfounded assumptions or hindsight reconstruction to supply deficiencies in its factual basis”. *In re Warner*, 379 F.2d 1011, 1017, 154 USPQ 173, 178 (CCPA 1967), cert. denied 389 U.S. 1057 (1998). Moreover, the Federal Circuit held, “[i]t is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious ... ‘[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to depreciate the claimed invention.’” *In re Fritch*, 972 F. 2d 1260, 23 USPQ2d 1780,

1784 (Fed. Cir. 1992), quoting *In re Fine*, *In re Fine*, 837 F.2d 1071, 1075 USPQ2d 1596 (Fed. Cir. 1988). The Federal Circuit has repeatedly and clearly warned against, “the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher”. *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000) (citing *W.L. Gore & Assocs., Inc. v. Garlock, Inc.*, cited *supra*). (“To imbue one of ordinary skill in the art with knowledge of the invention in suit, when no prior art reference or references of record convey or suggest that knowledge, is to fall victim to the insidious effect of a hindsight syndrome wherein that which only the invention taught is used against its teacher”, *W.L. Gore & Assocs., Inc. v. Garlock, Inc.* cited *supra*.) As stated by the Federal Circuit, “Obviousness *may not* be established using hindsight” (*emphasis added*). *Para-Ordnance Mfg. v. SGS Importers Int’l*, 73 F.3d 1085, 1087, 37 USPQ2d 1237, 1239 (Fed. Cir. 1995). “Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor’s disclosure as a blueprint for piecing together the prior art to defeat patentability—the essence of hindsight”. *In re Dembiczak*, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999).

Moreover, it is unclear to Applicant how the combination proposed by the Examiner would or could be achieved. The homodyne system according to Golan and the heterodyne system of Miyauchi are inherently incompatible. There is no explanation of how in adopting “overlapping frequency bands” according to Miyauchi, the receiver of Golan may be “upgraded” to further reduce image components introduced by a mismatch in the local oscillator signals  $f_I$  and  $f_Q$ . Absent such an explanation, one skilled in the art would have no way to even pursue the combination proposed by the Examiner.

Finally, Applicant cannot identify in the Present Action or discover in the references themselves a reasonable expectation of success in modifying the teachings of Golan and Miyauchi. The existence of a reasonable expectation of success is required and should be evident from the record and may not be omitted. Moreover, the reasonable expectation of success and the teaching or suggestion to make the claimed combination, both must be, “found in the prior art, and **not** based on applicant’s disclosure”. *In re Vaeck*, cited *supra*.

At least for failing to provide a legitimate motivation to combine/modify and a reasonable expectation for success, as well as for failing to establish that all of the

limitations of the rejected claims are disclosed or suggested, the rejection under 35 U.S.C. 103(a) of at least base Claims 1 and 26 lacks proper support for a *prima facie* case of obviousness. Furthermore, if an independent base claim is non-obvious under 35 U.S.C. 103, any claim depending therefrom is likewise non-obvious. *In re Fine*, 837, F.2d 1071, 1075, 5 USPQ2d 1596, 1600 (Fed. Cir. 1988). As such, the rejection of dependent Claims 2, 4-5, 8-9, 12 and 28 lack proper support for *prima facie* obviousness for at least the same reasons as are discussed above with respect to base Claims 1 and 26.

Hence, the rejection of Claims 1-2, 4-5, 8-9, 12, 26 and 28 under 35 U.S.C. 103(a) over Golan in view of Miyauchi must be withdrawn for lack of proper support for *prima facie* obviousness. Reconsideration and withdrawal of the rejection are respectfully requested.

Claims 3 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Golan in view of Miyauchi, as applied to Claims 1 and 26 above, and further in view of Dufour et al., U.S. Patent Application Publication 2003/0187,601 A1 (hereinafter 'Dufour et al.').

Applicant respectfully traverses the rejection on the grounds that the combination of Golan in view of Miyauchi and further in view of Dufour et al. fails to support a *prima facie* case of obviousness with respect to Claims 3 and 27.

Claim 3 is dependent from and includes all of the limitations of base Claim 1 and Claim 27 is dependent from and includes all of the limitations of base Claim 26. As discussed above, the combination of Golan and Miyauchi fails to teach or suggest all of the claim limitations of respective base Claims 1 and 26. Dufour et al. fail to add the claim limitations that are lacking in the combination of Golan and Miyauchi. As such, the combination Golan, Miyauchi and Dufour et al. similarly fails to disclose or suggest all of the claim limitations of the base claims, as is required for establishing *prima facie* obviousness.

Moreover, as discussed above, the Examiner did not provide a legitimate motivation to combine/modify Golan and Miyauchi. As such, the combination of Golan and Miyauchi is fatally flawed. Also fatally flawed for the same reasons is the further combination of Golan and Miyauchi with any other reference including, but not limited to, Dufour et al.



That notwithstanding, the Examiner's proposed motivation to combine Dufour et al. with Golan and Miyauchi similarly lacks legitimacy for essentially the same reasons given above with respect to the combination of Golan and Miyauchi. See at least MPEP §2143.01, cited *supra*; *In re Mills*, cited *supra*; *In re Rouffet*, cited *supra*; and *Ecolochem, Inc. v. Southern Calif. Edison Co.*, cited *supra*. In particular, the Examiner's proposed motivation to combine Golan, Miyauchi and Dufour et al. lacks a showing that the, "motivation *to do so* [is] found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art" (*emphasis added*). MPEP §2143.01 cited *supra*. The Examiner further failed to provide, "evidence that 'a skilled artisan, *confronted with the same problems as the inventor* and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed'" (*emphasis is added*). *Ecolochem, Inc. v. Southern Calif. Edison Co.*, cited *supra*. Specifically, the Examiner did not explain the reasons why the skilled artisan would have been motivated to both select the particular references for combination and to combine them in the manner suggested by the Examiner, as required by the courts in a myriad of decisions. Also, see for example, *In re Rouffet*, cited *supra*.

Moreover, as with the original combination of Golan and Miyauchi, Applicant can discern no reason for selecting Dufour et al. for combination therewith, other than a possible attempt on the part of the Examiner to address acknowledged deficiencies in the combined disclosure of Golan and Miyauchi with respect to Applicant's claim limitations. In other words, the Examiner appears to be improperly using Applicant's teaching as a blue print for picking and choosing among the disclosed features of the cited references which has been explicitly prohibited by the courts. See *In re Fritch*, cited *supra*. Also see, *In re Warner*, cited *supra* and *In re Kotzab*, cited *supra*.

The Examiner also did not show and was silent on there being a reasonable expectation of success in modifying the teachings of Golan and Miyauchi with the teachings of Dufour et al. As noted above, the Examiner is not at liberty to merely dispense with this requirement for convenience when attempting to establish a *prima facie* case of obviousness under 35 U.S.C. 103.

At least for failing to provide a legitimate motivation to combine/modify and reasonable expectation of success, as well as for separately failing to establish that all of the limitations of the rejected claims are disclosed or suggested, the Examiner's

rejection under 35 U.S.C. 103(a) lacks proper support for a *prima facie* case of obviousness according to the courts. Thus, the rejection of Claims 3 and 27 under 35 U.S.C. 103(a) over Golan in view of Miyauchi and further in view of Dufour et al. must be withdrawn. Reconsideration and withdrawal of the rejection are respectfully requested.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Golan in view of Miyauchi, as applied to Claim 1 above, and further in view of Fullerton et al., U.S. Patent Application Publication 2004/0136,438 A1 (hereinafter 'Fullerton et al.').

Applicant respectfully traverses the rejection on the grounds that the combination of Golan in view of Miyauchi and further in view of Fullerton et al. fails to support a *prima facie* case of obviousness with respect to Claim 10.

Claim 10 is dependent from and includes all of the limitations of base Claim 1. As discussed above, a combination of Golan and Miyauchi fails to teach or suggest all of the claim limitations of base Claim 1. Fullerton et al. fail to add the claim limitations that are lacking in the combination of Golan and Miyauchi. As such, the combination Golan, Miyauchi and Fullerton et al. similarly fails to disclose or suggest all of the claim limitations of the base claims, as is required for establishing *prima facie* obviousness.

Moreover, as discussed above, the Examiner did not provide a legitimate motivation to combine/modify Golan and Miyauchi. As such and as noted above, the combination of Golan and Miyauchi is fatally flawed. Also fatally flawed for the same reasons is the further combination of Golan and Miyauchi with any other reference including, but not limited to, Fullerton et al.

That notwithstanding, the Examiner's proposed motivation to combine Fullerton et al. with Golan and Miyauchi similarly lacks legitimacy for essentially the same reasons given above with respect to the combination of Golan and Miyauchi. See at least MPEP §2143.01, cited *supra*; *In re Mills*, cited *supra*; *In re Rouffet*, cited *supra*; and *Ecolochem, Inc. v. Southern Calif. Edison Co.*, cited *supra*. In particular, the Examiner's proposed motivation to combine Golan, Miyauchi and Fullerton et al. lacks a showing that the, "motivation *to do so* [is] found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art" (*emphasis added*). MPEP §2143.01 cited *supra*. The

Examiner further failed to provide, “evidence that ‘a skilled artisan, ***confronted with the same problems as the inventor*** and with no knowledge of the claimed invention, would select the elements from the cited prior art references for combination in the manner claimed’” (***emphasis is*** added). *Ecolochem, Inc. v. Southern Calif. Edison Co.*, cited *supra*. Specifically, the Examiner did not explain the reasons why the skilled artisan would have been motivated to both select the particular references for combination and to combine them in the manner suggested by the Examiner, as required by the courts in a myriad of decisions. Also, see for example, *In re Rouffet*, cited *supra*.

Moreover, as with the original combination of Golan and Miyauchi, Applicant can discern no reason for selecting Fullerton et al. for combination therewith, other than a possible attempt on the part of the Examiner to address acknowledged deficiencies in the combined disclosure of Golan and Miyauchi with respect to Applicant’s claim limitations. In other words, the Examiner appears to be improperly using Applicant’s teaching as a blue print for picking and choosing among the disclosed features of the cited references which has been explicitly prohibited by the courts. See *In re Fritch*, cited *supra*. Also see, *In re Warner*, cited *supra* and *In re Kotzab*, cited *supra*.

The Examiner also did not show and was silent on there being a reasonable expectation of success in modifying the teachings of Golan and Miyauchi with the teachings of Fullerton et al. As noted above, the Examiner is not at liberty to merely dispense with this requirement for convenience when attempting to establish a *prima facie* case of obviousness under 35 U.S.C. 103.

At least for failing to provide a legitimate motivation to combine/modify and reasonable expectation of success, as well as for separately failing to establish that all of the limitations of the rejected claim are disclosed or suggested, the Examiner’s rejection under 35 U.S.C. 103(a) lacks proper support for a *prima facie* case of obviousness according to the courts. Thus, the rejection of Claim 10 under 35 U.S.C. 103(a) over Golan in view of Miyauchi and further in view of Fullerton et al. must be withdrawn. Reconsideration and withdrawal of the rejection are respectfully requested.

Applicant appreciates the Examiner’s allowance of Claims 30-40. Applicant further appreciates the Examiner’s indication that Claims 6, 7, 11, 13-25 and 29

would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, in light of that discussed above, Applicant respectfully declines to rewrite the allowable claims at this time and respectfully requests reconsideration.

In summary, Claims 1-40 are pending. Claims 30-40 were allowed. Claims 1-5, 8-10, 12 and 26-28 were rejected while Claims 6, 7, 11, 13-25 and 29 were objected to but deemed allowable if rewritten in independent form. Applicant respectfully submits that Claims 1-29 are currently in condition for allowance. Applicant respectfully requests that Claims 1-29 be allowed along with Claims 30-40, and that the application be passed to issue at an early date.

Should the Examiner's action be other than allowance of the claims, the Examiner is urged to contact the undersigned by telephone at the number given below in an effort to expedite the prosecution of this application. Should the Examiner have any questions regarding the above, the Examiner is urged to contact the undersigned or Robert T. Martin, Attorney for Applicant, Registration No. 32,426 at Agilent Technologies, Inc., telephone number (408) 553-2933.

Respectfully submitted,  
RAYMOND A. BIRGENHEIER ET AL.

By: /J. Michael Johnson/  
J. Michael Johnson  
Attorney/Agent for Applicant(s)  
Registration No. 37,856  
(775) 849-3085

#### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being transmitted to the United States Patent and Trademark Office via EFS-Web on the date shown below.

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